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CAUSE NO. 12,764

THE STATE OF TEXAS	§	IN THE DISTRICT COURT OF
	§	
VS.	§	TITUS COUNTY, TEXAS
	§	
BILLY JOE WARDLOW	§	76TH JUDICIAL DISTRICT

STATEMENT OF FACTS

DEFENDANT'S MOTION TO SUPPRESS CONFESSION(S)

October 18, 1994

VOLUME 10 of 43 volumes

FILED IN
COURT OF CRIMINAL APPEALS

OCT 11 1995

Troy C. Bennett, Jr., Clerk

ORIGINAL

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VOLUME 10

DEFENDANT'S MOTION TO SUPPRESS CONFESSION(S)

OCTOBER 18, 1994PAGE/VOLUME

APPEARANCES 1/10

MORNING SESSION 3/10

WITNESS FOR THE STATE

RICKY BLACKBURN

CROSS EXAMINATION BY MR. OLD 3/10

RECESS 38/10

WITNESS FOR THE STATE

RICKY BLACKBURN

REDIRECT EXAMINATION BY MR. TOWNSEND . 40/10

RE CROSS EXAMINATION BY MR. OLD 53/10

STATE RESTED ITS CASE ON MOTION 57/10

RECESS 57/10

WITNESS FOR THE DEFENSE

BILLY JOE WARDLOW, the Defendant

DIRECT EXAMINATION BY MR. HINSON . . . 58/10

CROSS EXAMINATION BY MR. TOWNSEND . . 71/10

REDIRECT EXAMINATION BY MR. HINSON . . 77/10

RE CROSS EXAMINATION BY MR. TOWNSEND . 80/10

DEFENSE RESTED ON MOTION TO SUPPRESS 81/10

STATE RESTED ON MOTION TO SUPPRESS 81/10

COURT ADJOURNED 82/10

COURT REPORTER'S CERTIFICATE 83/10

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

VOLUME 10

ALPHABETICAL INDEX OF WITNESSES

OCTOBER 18, 1994PAGE/VOLUMEBLACKBURN, RICKY

Cross Examination by Mr. Old	3/10
Redirect Examination by Mr. Townsend . . .	40/10
Recross Examination by Mr. Old	53/10

WARDLOW, BILLY JOE

Direct Examination by Mr. Hinson	58/10
Cross Examination by Mr. Townsend	71/10
Redirect Examination by Mr. Hinson	77/10
Recross Examination by Mr. Townsend . . .	80/10

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

VOLUME 10

EXHIBIT INDEX

<u>EXHIBIT NO.</u>	<u>MKD.</u>	<u>IDENT.</u>	<u>OFFRD.</u>	<u>ADM/DEN</u>
DEFENSE PRE-TRIAL 2 Cell Assignments	27	27	27	27/ADM

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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DEFENDANT'S MOTION TO SUPPRESS CONFESSION(S)

October 18, 1994

VOLUME 10 of 43 volumes

Before Honorable Gary R. Stephens

Judge by Judicial Assignment

(Venue changed from Morris County, Texas)

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1 On the 18th day of October, 1994, the
2 above-entitled and numbered cause came on for hearing
3 before said Honorable Court, Judge Gary R. Stephens of
4 Midlothian, Texas, serving by judicial assignment in the
5 District Court of Titus County, Texas, on change of venue
6 from Morris County, Texas, and the following proceedings
7 were had:

8 THE COURT: Let's get back on
9 the record.

10 Mr. Old, when we recessed yesterday you
11 wanted a chance to look over some information that was
12 provided, I believe it was a notebook from the Sheriff,
13 have you had a chance to look over your information?

14 MR. OLD: I have looked over
15 the information, Your Honor.

16 THE COURT: Are you ready to
17 proceed with your cross examination?

18 MR. OLD: Yes. I am.

19 THE COURT: You may proceed.

20 MR. OLD: Your name, sir?

21 THE WITNESS: "Ricky
22 Blackburn."

23 Q (BY MR. OLD) And you are the same "Ricky
24 Blackburn" who is the Sheriff of Morris County, Texas who
25 testified yesterday in this case?

1 A Yes, sir.

2 Q Let me -- you had told me that prior to talking
3 to Mr. Wardlow in February of 1994 that you had a
4 conversation with a Judge Porter?

5 A Yes, sir.

6 Q And as to his -- that he gave you some advice?

7 A Judge Porter said it could go either way.

8 Q He gave you advice?

9 A He made a statement.

10 Q Did you ask him for advice? He responded to
11 your question?

12 A Basically. Yes.

13 Q That's the same "Judge Porter" who is the
14 District Judge of the 276th Judicial District Court?

15 A Yes.

16 Q And that is a court that has jurisdiction of
17 criminal matters in Morris County, Texas?

18 A Yes, sir.

19 Q The district -- there are two judges, district
20 judges who serve Morris County, Texas, both in civil and
21 criminal cases?

22 A Yes, sir.

23 Q And that's the "Honorable B.D. Moye" and
24 "Honorable William Porter?"

25 A Yes.

1 Q And this case is being tried in Titus County
2 on a change of venue?

3 A Yes, sir.

4 Q And Titus County also is served by those same
5 two District Judges?

6 A Yes, sir.

7 Q And the 76th and 276th District?

8 A Yes, sir.

9 Q Moye being the 76th Judicial District Court and
10 Judge Porter being the 276th?

11 A Yes, sir.

12 Q Yesterday you told me when this meeting time,
13 when you told Mr. Wardlow how you handled things and
14 suggested it might be helpful to him to write things
15 down?

16 A Yes, sir.

17 Q Okay. You did not know the date of that
18 meeting?

19 A No, sir.

20 Q And you still do not know?

21 A No, sir.

22 Q State's Exhibit 3, and that is a letter
23 addressed to "Ricky" and purported to be from Mr. Wardlow
24 dated 2/28/94, 8:15 p.m., are you familiar with that
25 document? (Indicating)

1 A Yes, sir.

2 Q You testified you found that in your box at the
3 Sheriff's Office?

4 A Yes, sir.

5 Q And that is a box where people leave things for
6 you as opposed to an official U.S. Post Office box?

7 A Yes, sir.

8 Q And of your own knowledge you do not know how
9 that letter got there, you only know what others tell
10 you?

11 A That's correct.

12 Q Sheriff, in the material that you supplied me
13 yesterday which was out of the notebook that you
14 testified from the inmate prisoner correspondence
15 document was enclosed, it's in the first section of the
16 notebook. (Indicating)

17 A The correspondence?

18 Q Yes.

19 A Okay.

20 Q It starts, it has Roman numeral I, II, III and
21 IV on the first page and continues on Page 2.
22 (Indicating)

23 A Okay.

24 Q Roman numeral Section B provides "Inmates will
25 be allowed to retain or purchase writing materials and

1 stamps in reasonable amounts?" (Indicating)

2 A Yes.

3 Q As to the word "retain" is it a policy that
4 they may retain their mail and their written documents?

5 A Excuse me?

6 Q Okay. If I'm a prisoner and over a period of
7 time I accumulate 10 or 15 letters that have been sent
8 to me I am allowed to retain those?

9 A Yes, sir.

10 Q And you respect their right of privacy to those
11 letters?

12 A Yes, sir.

13 Q And as to documents that they write they are
14 allowed to retain them or copies of them?

15 A Yes, sir.

16 Q And you respect and honor their right or
17 privacy as to those documents?

18 A Yes, sir.

19 Q Is that the policy of the Morris County
20 Sheriff's Department?

21 A Yes.

22 Q Sheriff, I find in your notes what is --
23 appears to be a jail inmate mail log and if I can there
24 is a section in your notebook that I believe it's
25 entitled "Mail Log", that's what I'm looking at if you

1 want to look at it with me. (Indicating)

2 A Okay.

3 Q Tell me when you think we are at the same --
4 on the same page.

5 A I have the "Mail Log."

6 Q It starts out, well, "September, '93, Linda
7 Wardlow, Box 147, Cason, Texas?" (Indicating)

8 A Yes.

9 Q Now, each letter that an inmate writes or
10 receives is recorded in that mail log?

11 A If it comes through the U.S. Mail.

12 Q If a letter does not come by U.S. Postal
13 Service then it is not logged, is it?

14 A That's correct.

15 Q And there's no record kept of the logging of
16 those records anywhere?

17 A If it's not sent through the U.S. Mail it is
18 not logged anywhere. No.

19 Q Okay. Now, whether official or not there is
20 a system or communication and writing what amounts to
21 mail inside the jail itself, is that correct?

22 A As far as correspondence from inmates to the
23 jailer?

24 Q Yes.

25 A Yes, sir.

1 Q And your office does not log or keep up with
2 those items?

3 A On some of the -- we have doctor's requests and
4 things of that nature, I believe those are kept up with.

5 Q Okay. But they are not kept up in the fashion
6 that a log or correspondence is kept?

7 A Correct.

8 Q And on this log that we are looking at we would
9 not find any logging of inner jail communication?

10 A That's correct.

11 Q In reading the policies, if I understand it
12 correctly that you all open all incoming mail?

13 A No.

14 Q Okay. Let me -- correct me where I am wrong;
15 as I understand your policy there is -- there's two
16 policies, one is to ordinary mail and to privileged mail
17 which is legal mail?

18 A Correct.

19 Q That as to ordinary mail you all open each
20 envelope and search it for dope or contraband?

21 A Yes, sir.

22 Q As to outgoing mail, okay, and as to legal
23 mail, legal incoming -- incoming mail, your policy is to
24 open it in front of the prisoner?

25 A Not all the time. No, sir.

1 Q I'm asking you what the policy is, not what is
2 done.

3 A No. The incoming mail is opened up front.

4 Q So legal --

5 A Legal mail is not, is taken to the inmate.

6 Q Okay. Is it opened by the jailer or a person
7 with the Sheriff's Department in their presence?

8 A Let me go back and see what it says.

9 It's to be opened only with the presence
10 of the inmate with inspection limited to locating
11 contraband.

12 Q Now, as to a prisoner's outgoing non-privileged
13 mail, is it opened?

14 A Outgoing non-privileged will be opened not --
15 only if contraband is suspected or to prevent breach of
16 security of the jail.

17 Q Have you opened any of Mr. Wardlow's outgoing
18 mail?

19 A No, sir. I haven't.

20 Q Has anyone with the department?

21 A We would have to ask everyone in the
22 department.

23 Q Do you have a report, do you keep a record of
24 those things?

25 A Of when it's opened?

1 Q Yes.

2 A No. We keep a record of the outgoing mail.

3 Q I notice in your notebook there's a name,
4 letters that are addressed to someone named "Tonya" and
5 to Mr. Wardlow's mother?

6 A Yes.

7 Q How did you get those copies?

8 A The jailer provided me with copies.

9 Q And where did they get them?

10 A Well, sir, they open the mail and that was the
11 -- falling under "to prevent breach of security of the
12 jail."

13 Q Now, the purpose of that -- and they make
14 copies of them?

15 A Yes, sir.

16 Q And you all request the inmate to leave their
17 outgoing mail unsealed?

18 A Yes.

19 Q Why would it be necessary to make copies of
20 outgoing mail?

21 A To have --

22 Q For what purpose?

23 A In case something were to happen.

24 Q Well, like what would happen?

25 A Like, for instance, okay, I'll tell you what

1 -- let me use -- over here, for instance would be
2 outgoing mail, "I have only one choice left, that choice
3 is to do whatever is necessary to leave this
4 confinement."

5 For security of the jail I think that
6 would be important to keep it. (Indicating)

7 Q Why would it be important to make a copy of the
8 letter?

9 You have read the letter.

10 A Same thing is important on anything else, if
11 someone is planning on doing something it's nice to have
12 a copy of it showing their intent.

13 Q Well, I mean would it aid, is it possible such
14 things to aid your investigation and in assisting your
15 prosecutor in the trial of the case?

16 A It hasn't to my knowledge.

17 Q Well, do you think it's possible it could in
18 any case?

19 A Possible.

20 All inmates know that there is a
21 likelihood.

22 Q Outgoing privilege -- "non-privileged mail",
23 the policy is "Roman numeral III" on the document that
24 you referred to earlier.

25 "Non-privileged outgoing mail will be

1 opened and if contraband is suspected or to prevent
2 breach of security of the jail?" (Indicating)

3 A Okay.

4 Q Is that correct?

5 A "Number III, outgoing non-privileged mail?"
6 (Indicating)

7 Q Yes. Did I read it correctly?

8 A Yes.

9 Q There is a letter, I believe it has been
10 offered into evidence, it's dated by your office
11 "2/24/94", it is to "Ricky" and it purports to be from
12 Billy Wardlow, it's "State's Exhibit 2."

13
14 (Handed to the witness.)

15
16 MR. OLD: Are you familiar
17 with that letter?

18 THE WITNESS: Yes, sir.

19 Q (BY MR. OLD) Do you know whether or not the
20 conversation that we talked about yesterday, and again
21 referring to the conversation where you suggested the
22 benefit of writing things down, do you know whether or
23 not that conversation was before or after 2/24/94?

24 A No, sir.

25 Q Exhibit 1 which we talked about yesterday was

1 where Mr. Wardlow by letter attached requested a meeting
2 to you, stated that he wanted to talk to you concerning
3 his case?

4 A Yes.

5 Q Now, isn't State's Exhibit 2 the letter of
6 2/24/94 a renewal of the request and somehow, I mean is
7 it expressing the same problem that you told me he
8 expressed to you, that he was having problems which we
9 generally characterize as "depression?"

10 A What? I'm having trouble finding that letter.

11 Q Excuse me, Sheriff, I am sorry.

12 A "2/24?"

13 MR. LEE: I believe that
14 question has been asked and answered several times
15 yesterday.

16 THE COURT: Overruled.

17 MR. OLD: Do you want me to
18 lay both of them up there? (Indicating)

19 THE WITNESS: The last
20 sentence appears, does appear to be a carryover of
21 2/24/94 from 1/25/94.

22 Q (BY MR. OLD) And that last sentence you are
23 referring to is "Please, it is urgent that you respond
24 before something happens you and I will both regret.
25 Thank you for understanding my problem and situation?"

1 (Indicating)

2 A Yes, sir.

3 Q So after having reviewed State's Exhibit 2 and
4 State's Exhibit 1 together would that refresh your
5 recollection or help you identify this conversation as
6 having been February 24th or immediately thereafter?

7 A Well, as I said earlier I don't remember the
8 date.

9 Q Okay.

10 A According to the letter on 2/24 it did not
11 appear from the contents of that letter that I had talked
12 to him prior to that.

13 Q And I'm just trying -- if there's anything that
14 would refresh your recollection as to when this meeting
15 is I consider that to be an important matter.

16 A Sure.

17 Q And I'm not trying to play games with you.

18 A I understand.

19 Like I said, like I said yesterday it
20 could have been a week and a half or two weeks later but
21 from the contents of that letter there, 2/24 letter.

22 Q Yes.

23 A It did not appear as though I had talked to
24 Billy from the contents of that letter.

25 Q Thank you, Sheriff.

1 Sheriff, did you review your notebook
2 last night or after trial -- after the hearing yesterday?

3 A To a degree.

4 MR. OLD: May I approach the
5 witness, Your Honor?

6 THE COURT: You may.

7 MR. OLD: Sheriff, let me
8 see if we can get on the same page and this is where I
9 am -- and it's mine, it's behind "Security tightened."

10 There ought to be a blue tab on it --
11 there we are. (Indicating)

12 THE WITNESS: Okay. It was
13 on "Cell Assignments", you put it down wrong.

14 MR. OLD: What is that page?

15 THE WITNESS: This is the
16 assignment that the particular jailer did on that
17 particular day. (Indicating)

18 Q (BY MR. OLD) Do you know which jailer that is?

19 A The initials are "J.G.", it's "Jim Goodman",
20 starting there on "22" and from 11:00 to 7:00 right below
21 that appears to be "Jim Snider" on 2/23, below that would
22 be "Robby Gray" and on 2/23, 3:00 to 11:00 would be --
23 2/23, 3:00 to 11:00 would be Jim Goodman and 2/23/94 from
24 11:00 to 7:00, Jim Snider and 2/24/94, 7:00 to 3:00,
25 Robby Gray. (Indicating)

1 Q Let me go back, will you turn back to the page
2 immediately before the one we were looking at, it has a
3 heading "Top Classification and Separation."
4 (Indicating)

5 A Okay.

6 Q Starting at the bottom of that page it has
7 "Reclassification", is followed by handwriting, is that
8 the start?

9 A On 7 -- 7/4/94 "moved to general population."

10 Q That's the document that I'm asking about, that
11 goes to the last dated entry on that document is
12 10/27/94? (Indicating)

13 A Yes.

14 Q And then when we turn the page we jump over to
15 what date?

16 A It appears mine -- something had --

17 Q Do you know what happened to the record -- to
18 the records that were made between 10/27/93 and what I
19 believe to be February 19th, 1994? (Indicating)

20 A I could probably find them there at our office.

21 Q I mean do you know why they were taken out of
22 the notebook or not put in the notebook or whatever?

23 A Well, probably looking at Cell Assignments, it
24 evidently moved Billy from 158 to 160 and on the 22nd,
25 "Moved Wardlow back into 160" and on 2/24, "Moved Billy

1 Wardlow from 145" on 2/20, "Moved Billy Wardlow to 145"
2 and we look back over on our jail -- or our jail Cell
3 Assignments and we can check to double-check to see if
4 that --

5 Q My question is; where are the documents that
6 would be between those two dates?

7 A I am sure that they would be there at our
8 office.

9 Q Would they have concerned Billy Wardlow?

10 A If he had been taken -- taking any kind of
11 medication.

12 Q Or if he had been moved?

13 A This is what that indicates, he had been moved.
14 (Indicating)

15 Q Go to the page that we started on on February
16 20th, 1994 it indicates "Searched 160", is that correct?
17 (Indicating)

18 A "Searched 160."

19 Yes.

20 Q Immediately under it, "Moved Billy Wardlow to
21 145?" (Indicating)

22 A Yes.

23 Q Was Billy Wardlow on 2/20/94 in cell 160?

24 A Yes, sir.

25 Q And you searched his cell, did you not?

1 A Well, not his, the cell that he was in there,
2 searched other people in there with him.

3 Q Who searched his cell?

4 A The jailers.

5 Q So you didn't?

6 A No.

7 Q You don't know what they did other than they
8 indicated they searched him?

9 A Other than their reports.

10 Q Well, I'm not asking you what the report says,
11 I'm asking you of your own knowledge right now.

12 A Ask me the question again, please.

13 Q That indicates they searched his cell, the
14 jailer did.

15 A That indicates that cell number 160 was
16 searched.

17 Q You were not present?

18 A No, sir.

19 Q And that was not a fire drill, was it?

20 A No, sir.

21 Q Sheriff, what was the first night that Mr.
22 Wardlow spent in your jail?

23 A Just a second.

24 Q Was it June 23rd?

25 A June the 23rd. Yes, sir.

1 Q 1993?

2 A Yes, sir.

3 Q I am looking at the section of the notebook
4 which is entitled "Cell Assignments." (Indicating)

5 A Okay.

6 Q The first page of that is "Wardlow Cell
7 Assignments?" (Indicating)

8 A Yes, sir.

9 Q Is that a document that you made?

10 A The jailers made. Yes.

11 Q Was that made to bring to this hearing?

12 A No. We keep a record of it. This is a photo
13 copy of it. (Indicating)

14 Q Is that something that entries were made as he
15 was moved from cell to cell or is this a summary of other
16 records?

17 A I believe this is going to be a summary of the
18 records.

19 Q Did you summarize that?

20 A No, sir. I didn't.

21 Q Who did?

22 A It would have either been Kathy Kimberly or
23 -- who is a secretary for the Sheriff's Department or
24 Patsy Martin who is the Chief Jailer or both.

25 Q Have you reviewed it for accuracy?

1 A I take their word as far as that goes.

2 Q But you have not reviewed the record, right?

3 A That is correct.

4 Q What is cell 145?

5 A Cell 145 is our suicide cell, use it for
6 someone has a possible suicidal tendency, we'll place
7 them in that cell.

8 If someone needs to be moved into a
9 single cell we use that cell.

10 Q How is it furnished and how is it different
11 from other cells?

12 A The basic difference is that it's located
13 within view of the dispatch so there is a window from
14 the dispatch room and the dispatch can look directly into
15 the cell.

16 Q How is it furnished? Is it furnished
17 differently?

18 A It has a bunk, has a toilet and has a shower.

19 Q Is it a padded cell?

20 A No, sir.

21 Q Does it have TV?

22 A No, sir.

23 Q Do the other cells have TVs?

24 A Yes.

25 Q Is that true of all other cells?

1 A No, sir.

2 Q Do they have the ability of TV in all other
3 cells?

4 A No, sir.

5 Q What determines whether you get a cell with TV
6 or not?

7 A Well, if there is space and the -- like I say,
8 multiple occupancy cells, that's where the TVs are.

9 Q Do prisoners have to pay for the privilege to
10 have a television?

11 A No. He did not.

12 Q Do they pay a cable fee of some sort?

13 A No. He doesn't.

14 Let me back up; on the initial
15 installation the inmate may pay "X" amount, I can't even
16 tell you what the installation was, it may have been \$18,
17 it may have been \$22, I don't know. That money was taken
18 up and they paid the initial hookup fee.

19 Q Well, is that something happened several years
20 ago or does it happen every time you get a new prisoner?

21 A Every time we get a new prisoner?

22 Q Yes.

23 A No. That was a one time deal.

24 Q If you put me into a cell that had a TV and I
25 was there by myself would I have to pay the \$22 to turn

1 it on if someone else had not before me?

2 A No. It's not broken down like that. It's
3 turned on in every cell.

4 Q Okay. Is cell 145 which you have named "the
5 suicide cell" are prisoners also placed in there for
6 punishment?

7 A No. They are not.

8 Q Or for discipline?

9 A No. They are not.

10 Q You never discipline anybody by putting them
11 off by themselves?

12 A No. Not in that cell.

13 Q Where would you put them for discipline?

14 A In a separation cell.

15 Q What separation cell?

16 A It's a single cell.

17 Q And the suicide cell is a single cell?

18 A Yes, sir.

19 Q How does a separation cell differ from the
20 suicide cell?

21 A On a separation cell it's located in the back
22 portion of the jail and it has no windows for the --
23 where the jailer can see into.

24 Q Would the difference in them be the fact that
25 the one you call "suicide cell" is where the dispatcher

1 can watch them at all times?

2 A That's correct.

3 Q What numbers are your separation cells?

4 A I don't know and I don't have my cell
5 assignments with me -- well, wait a minute, it would be
6 "165, 164, 163 and 162."

7 Q What is cell 160?

8 A It's a multiple occupancy cell.

9 Q If I saw notes referring to "GP", would that
10 be "General Population?"

11 A More than likely. Yes.

12 Q And would that refer to a multiple occupancy
13 cell?

14 A Occupancy cell.

15 Q What is cell 170?

16 A Oh, cell 170 -- let me look, it's going to be
17 a possibility that cell number 170 and two of our big
18 rooms, there are six inmates in one room, I, like I say,
19 it's a large room then there's six individual cells, six
20 individual small dorms inside of the one big cell.

21 Q Let me see if I understand what you are telling
22 me, 170 describes a common area for six individual cells?

23 A Pretty well. Yes.

24 Q What we will call "walk around?"

25 A No. It's -- we have our cells laid out, like

1 I say, it's just a large room like this, there would be
2 six small cells within the one large room.

3 Q Okay. Now, if I am in a cell off 170 -- first
4 in 170 itself are there places to sleep or are the places
5 to sleep in the cells surrounding?

6 A Okay. Inside, like I say, inside of 170 a
7 person has their bunk and that's their living area,
8 that's their house, their door leading into that they can
9 go in and out of.

10 Q Oh. If I was in cell 170 and dorm 168 would
11 that mean that I was locked up in 168 adjacent to 170?

12 A No, sir.

13 Q What would that mean?

14 A If you were in cell number -- according to this
15 168 would run -- I'll tell you what, if you want I can
16 have one of the jailers, one of the officers to bring you
17 a blueprint of the jail over here and they can show you
18 what I'm talking about.

19 Q I'm referring to on your summary that your
20 people made July 4th to July 28th, cell number 170 and
21 dorm 168?

22 A On the Cell Assignments?

23 Q Yes. It's -- that's the first sheet, it's a
24 summary is the one we are looking at. (Indicating)

25 A Okay.

1 Q I'm trying to understand from July 4th to July
2 28th where Mr. Wardlow was confined and what that means.

3 A According to this it is 168, dorm 168 and then
4 the various individual cells and they also have numbers
5 so he would have been in number 170.

6 Q Okay. Would that have meant that he was
7 confined to and locked in 170?

8 A That would mean that he was assigned to cell
9 number 170 in dorm 168.

10 Q Well, is 168 the area that you described as a
11 "common area?"

12 A Yes, sir.

13 Q Would he have had -- would the door between 168
14 and 170 have been locked at this time when he was in that
15 cell or would he have had the privilege of roaming back
16 and forth?

17 A He would have the privilege of moving back and
18 forth.

19 Q At anytime of night or day do you lock them in
20 their cells?

21 A Yes, sir. I believe like lock-down is what
22 time, at 11:00 o'clock and then 1:00 o'clock on the
23 weekends.

24 Q You mean at night?

25 A Yes, sir.

1 MR. OLD: Sheriff, can you
2 remove that page from your notebook?

3 Mark that.

4
5 (Defendant's Pre-Trial Exhibit Number
6 2 was marked for identification.)
7

8 MR. TOWNSEND: No objection,
9 Your Honor.

10 THE COURT: Defendant's
11 Exhibit 2 was admitted.
12

13 (Defendant's Pre-Trial Exhibit Number
14 2 was received in evidence.)
15

16 MR. OLD: (Handed to the
17 witness.)

18 Sheriff, going to January 1st, 1994 from
19 January the 1st to January the 31st Mr. Wardlow was in
20 cell 160 which is a multiple occupancy cell, is that
21 correct?

22 THE WITNESS: Yes, sir.

23 Q (BY MR. OLD) And that meant that he had a
24 large area to be in and he was confined with people,
25 other people?

1 A That's correct.

2 Q Then it says from February 1st to February the
3 20th he remained in cell 160 with the general population?

4 A Correct.

5 Q February the 21st to February the 22nd he was
6 moved to cell 145?

7 A Correct.

8 Q That's the suicide cell?

9 A Yes, sir.

10 Q On the 23rd and 24th he went back to cell 160
11 which was a general population?

12 A Yes, sir.

13 Q On February 25th he was moved back to the
14 suicide cell?

15 A Yes.

16 Q And remained in it from February 25th until
17 February 28th?

18 A Correct.

19 Q Would you have any records that indicate to you
20 what time of day he was removed from that cell?

21 A No, sir.

22 Q Such a thing does not exist?

23 A Well, I won't --

24 MR. TOWNSEND: Judge, I want
25 to object just on that basis, the records on that exhibit

1 reflect that he was in cell 145 from February 25th to
2 March the 7th.

3 MR. OLD: Well, that's my next
4 question, I don't understand why.

5 THE COURT: Is this a document
6 that you are referring to, Mr. Townsend, Defendant's
7 Exhibit 2 or is it a different one?

8 MR. TOWNSEND: Yes, Your
9 Honor.

10 THE COURT: Or is it a
11 different exhibit?

12 Well, the evidence will reflect whatever
13 the evidence reflects. I'm not going to sustain the
14 objection but I certainly will review the evidence but
15 frankly, Mr. Old, what is the materiality of where we are
16 going?

17 MR. OLD: Your Honor, this is
18 where he was confined at least when the State claims that
19 State's Exhibit 3, which is the -- what they are calling
20 an "Admission" or "Confession."

21 THE COURT: February 28th?

22 MR. OLD: Was offered and I
23 do not understand, the summary shows February 25th to
24 February 28th to cell 145 and turns around and shows
25 March 1st to March 7th in the same cell, I don't

1 understand why a double entry was made.

2 MR. TOWNSEND: I think it does
3 that each month.

4 MR. OLD: It may do it but I
5 don't understand why.

6 THE COURT: I believe that's
7 the same kind of notation that occurred in January.

8 MR. TOWNSEND: I assume -- I
9 said March 1st to March 7th, actually it's March 1st to
10 March 17th, I misread that.

11 THE WITNESS: Well, look back
12 through the letters and notes that Billy wrote, I'm
13 trying to find the documentation on whenever he was
14 requesting to be moved back -- to be moved back and
15 forth.

16 MR. TOWNSEND: Your Honor, is
17 this in response to a question?

18 THE COURT: I can't answer
19 that, Mr. Townsend, I'm not sure where we are right now.

20 MR. TOWNSEND: I guess I would
21 like to object.

22 THE COURT: Sustained.

23 MR. OLD: Sheriff, my question
24 is; do you have any record that indicates that he was
25 taken out of that cell February the 28th and what time

1 he would have been taken out?

2 THE WITNESS: As far as the
3 time, no, sir. No.

4 Q (BY MR. OLD) Let me go back and look at your
5 summary, the summary then turned around and says from
6 March 1st to March 17th he was kept in cell 145 or what
7 you call "the suicide cell?"

8 A Yes.

9 Q Why? I mean by my question is why have you all
10 disturbed, you know, you could have put -- he was in that
11 cell from February 25th to March 17th, I thought that
12 meant there was a break in the chain?

13 A No, sir. It's a break in the months.

14 Q So on February the 28th he was in the suicide
15 cell?

16 A Yes, sir.

17 Q He was isolated from the population of the
18 jail?

19 A He was separated. Yes.

20 THE COURT: Excuse me just a
21 minute, Mr. Old, are you saying -- Sheriff, are you
22 saying your notation even if a person is not moved from
23 a cell at the end of the month you will show that on
24 February 28th he's in cell so and so and then start a new
25 notation on March 1st?

1 THE WITNESS: Yes, sir.

2 THE COURT: Because of the
3 break in the month?

4 THE WITNESS: Correct.

5 THE COURT: That's no
6 indication that he might have been moved from the 28th
7 to the 1st to any other location?

8 THE WITNESS: That's correct.

9 THE COURT: And you do that
10 for each prisoner for each month?

11 THE WITNESS: Yes, sir. We
12 have a break-down, like I say, this is summarized. We
13 have jail assignments that we can go back and look at
14 continuously.

15 THE COURT: But all prisoners
16 on the jail assignments will show an ending date on the
17 end of the month and a beginning date on the first of the
18 next month even though there may not be a change in their
19 physical location?

20 THE WITNESS: Yes, sir.

21 THE COURT: Thank you, sir.

22 You may continue.

23 MR. OLD: On February 28th he
24 was isolated from the rest of the population of the jail
25 by being in the suicide cell?

1

THE WITNESS: Yes, sir.

2

Q (BY MR. OLD) And I presume the lock on the
suicide cell is kept locked at all times?

3

4

A Correct.

5

Q And he was placed to where your jailer or other
security people could observe him easily?

6

7

A Yes.

8

Q Sheriff, I believe you testified yesterday to
a conversation that we have questioned you about, that
you changed his cell immediately after that meeting?

9

10

MR. TOWNSEND: Your Honor, I
want to object to that. I don't remember any such
testimony.

11

12

THE COURT: I'm not going to
sustain the objection but I'm going to instruct Counsel
to be more specific on which meeting he's referring to.

13

14

MR. OLD: The meeting I'm
referring to, Mr. Blackburn, is where you had the
conversation with him, you all talked about religion, you
talked about his problems, his depression, not being able
to sleep at night, nightmares and you gave him the advice
to write everything down?

15

16

THE WITNESS: No.

17

Q (BY MR. OLD) Okay. Did you move him from one
cell to another immediately after or shortly after that

18

1 meeting?

2 A I don't know if it was before or after the
3 meeting.

4 Q You don't?

5 A No, sir. I sure don't.

6 Q Is cell 145 would be -- or what some prisoners
7 refer to as the "violent cell?"

8 A Yes, sir.

9 Q In the letter of 2/24/94, State's Exhibit 2,
10 Mr. Wardlow asked not to be put in that cell, is that
11 correct?

12 A I believe that is what it said. Yes.

13 Q And on February 25th he was moved to that cell,
14 is that correct, in your summary? (Indicating)

15 A February 25th. Yes, sir. February 28th, cell
16 145. Yes.

17 Q Actually February 25th to March 17th he stayed
18 in the suicide cell?

19 A Correct. yes, sir.

20 Q Sheriff, "6" is your letter of August 17th,
21 1994.

22

23 (Off the record discussion.)

24

25 MR. OLD: Sheriff, after

1 having reviewed your records, your jail records and
2 everything that you brought in your notebook I find no
3 reference to anything concerning "baptism."

4 THE WITNESS: We talked about
5 it yesterday.

6 Q (BY MR. OLD) I know we did. My question is,
7 I find nothing in your record showing anything about it.

8 A No. There isn't.

9 Q And you left the jail with a prisoner?

10 A Yes, sir.

11 Q And you didn't log it?

12 A No. I didn't.

13 Q And you can't tell us -- I believe you
14 testified in the last two or three months you took him
15 to be baptized?

16 A No. It was back --

17 Q Do you have any idea when?

18 A Oh, I think it was -- it has been several
19 months ago. I may can go back and talk with Mr. Tony
20 Carr and he's a preacher that comes up to our jail and
21 Mr. Bob Proctor, I don't remember if Mr. Proctor or if
22 Tony baptized Billy that day.

23 Q All right.

24 A I just don't remember.

25 Q I asked you in the last two or three months and

1 you said "In the last several months", maybe I better ask
2 you to define "several" for me, what do you mean by
3 "several?"

4 A Oh, maybe early part of the spring, you know.

5 Q And again when does -- what month do you
6 characterize "the early part of spring?"

7 A "March."

8 Q In your second paragraph of your last sentence
9 you remind Mr. Wardlow by saying, "Remember when you
10 needed someone to talk to and each time I would always
11 take time to talk to you?"

12 A Yes.

13 Q Now, yesterday you told me that there's a lot
14 of occasions you had times you had a "Hello, how are you,
15 it's a nice day" type conversation?

16 A Yes, sir.

17 Q That's not what you are referring to in that
18 letter?

19 A Yes. Referring to all of them.

20 Q Okay. The only time that you have identified
21 for me and you cannot do it by date is the conversations
22 which concerned and to where you at least suggested to
23 him to write everything down, what other conversations
24 are you referring to other than that one conversation?

25 A Oh, let me see, like I said, not -- if I am

1 there whenever they are coming back in from recreation
2 when they had gone out sometimes I talked to a lot of the
3 inmates there if I happened to be coming by the
4 visitation booth whenever he was coming out, "How is
5 everything going, how is your mom and dad, what is
6 happening?"

7 He had gone and got a tooth pulled or
8 filled or something, I may have saw him then for just a
9 few moments.

10 Q Sheriff, in that answer are you guessing more
11 than telling me actually what happened?

12 A Yes, sir.

13 Q And you close that letter by quoting from the
14 scripture of St. Luke, Chapter 6, Verse 27?

15 A Yes, sir.

16 Q And quoted practically the rest of Chapter 6,
17 didn't you?

18 A Quite a bit of it. Yes, sir.

19 MR. OLD: Your Honor, at this
20 time we pass the witness.

21 THE COURT: Mr. Townsend?

22 MR. TOWNSEND: Your Honor, at
23 this time I know Sheriff Blackburn is somewhat
24 uncomfortable in that chair, we have been at it for about
25 an hour.

1 THE COURT: Do you want to
2 take a break?

3 Ten minutes.

4
5 (Recess.)

6
7 THE COURT: All right. If
8 everyone is back let's go ahead and get back on the
9 record.

10 Mr. Old, you just mentioned off the
11 record that you had some more questions for the Sheriff,
12 you may proceed.

13 MR. OLD: Yesterday my client
14 informed me that per the rules in Titus County Jail they
15 are only allowed two showers a week and he was concerned
16 about coming to this courtroom dirty.

17 I talked to the Bailiff, the Bailiff has
18 talked to the Sheriff's Department and they have assured
19 me if he will request a shower early on the morning that
20 he's coming to Court that they will see that he gets one.

21 THE COURT: Okay.

22 MR. OLD: There's no complaint
23 about the policy and I'm sure it's -- my man needs to be
24 fresh and clean to come to Court.

25 THE COURT: You just wanted

1 to bring it to my attention and I agree that he should
2 be given access to shower every morning.

3 And, Mr. Wardlow, if you are not just
4 let the lawyer know and he will inform me and I will take
5 care of it.

6 MR. OLD: You have got to tell
7 them every morning and remind them.

8 THE DEFENDANT: Okay.

9 THE COURT: Is that it, Mr.
10 Old?

11 MR. OLD: That's it, Your
12 Honor.

13 MR. TOWNSEND: Go off the
14 record a moment, Your Honor?

15 THE COURT: Sure.

16
17 (Off the record discussion.)

18
19 THE COURT: Let's get it on
20 the record.

21 Let the record reflect that Mr. Townsend
22 has shown the Court and the Defense Attorney the original
23 of State's -- is that "3?"

24 MR. TOWNSEND: "3", I believe.

25 THE COURT: Of State's Exhibit

1 3 which is the letter dated February 28th, 1994, it is
2 in red ink.

3 Mr. Old, you did review that letter,
4 that original, is that correct?

5 MR. OLD: Your Honor, my
6 concern was the date and I had misread it as the "23rd"
7 and it does appear to be dated "the 28th."

8 THE COURT: I don't see any
9 reason for the original to go into evidence at this time
10 since that matter has been cleared up.

11 MR. TOWNSEND: May I proceed,
12 Your Honor?

13 THE COURT: You may.

14 MR. TOWNSEND: Approach the
15 witness?

16 THE COURT: You may.

17
18 REDIRECT EXAMINATION

19 BY MR. TOWNSEND

20
21 Q Sheriff, would you refer to your notebook again
22 and there is a letter under the -- I should say under
23 "security tightened", section and it's not really a
24 letter, it's sort of a note from Chief Jailer Patsy
25 Martin, it's dated at the top, January 26th of '94, 7:49

1 p.m. (Indicating)

2 A Which one did you say it would have been?

3 Q It's this one that -- (Indicating)

4 MR. OLD: They put my tabs in
5 wrong.

6 THE WITNESS: I think they
7 have mine, too.

8 MR. TOWNSEND: Under mine it's
9 on top of where it says, "Security Tightened" but
10 underneath where it says "Incident", maybe that's where
11 it should be up in the "Incident" section, I'm sorry.

12 MR. OLD: Give me just a
13 minute to catch up with it.

14 THE WITNESS: "Incident",
15 okay. Okay. I am on --

16 MR. TOWNSEND: Are you with
17 us?

18 THE WITNESS: Yes, sir. I
19 believe so.

20 MR. OLD: I am not.

21
22 (Off the record discussion.)

23
24 THE WITNESS: "1/26?"

25 MR. TOWNSEND: What is that

1 letter?

2 THE WITNESS: Okay. This is
3 a inner office memo report from Chief Jailer Patsy Martin
4 so --

5 MR. OLD: Your Honor, we are
6 going to object to the witness testifying as to the facts
7 in there because it's obviously hearsay to him and it,
8 at least part of it I believe to be hearsay as to the
9 last part of it, it's not only hearsay as to the witness,
10 part of it appears to me to be hearsay to the author,
11 it's "hearsay on hearsay."

12 THE COURT: Response, Mr.
13 Townsend?

14 MR. TOWNSEND: Your Honor, I
15 don't think any of the questions I ask will elicit a
16 hearsay response.

17 THE COURT: I haven't really
18 heard a question that elicited a hearsay response. I
19 think right now you have only been directed to the
20 letter, I will carry the objection until a question has
21 been asked about the letter itself.

22 MR. TOWNSEND: Sheriff, after
23 reviewing that does that refresh your memory some as far
24 as the -- what has been marked as State's Exhibit, I
25 believe it was "1" which is the letter dated January

1 25th.

2
3 (Handed to the witness.)

4
5 MR. TOWNSEND: Does that help
6 you in determining a time frame when you may have or what
7 you talked to Billy Wardlow in regard to the discussion
8 we have discussed here where you suggested that you liked
9 to write things down?

10 THE WITNESS: As far as the
11 last sentence, part of the last sentence and saying, "Do
12 what is necessary to receive this hearing", to me would
13 relate somewhat to the contents of this notation and
14 Chief Jailer Patsy Martin had it written down.

15 Q (BY MR. TOWNSEND) Do you believe after
16 receiving the letter -- after receiving the letter that
17 has been marked as "State's Exhibit 1" and dated January
18 25th and after reviewing the document that is marked, on
19 January the 26th there that you would have "made time"
20 so to speak to visit with Billy Wardlow?

21 MR. OLD: Your Honor, it calls
22 for him to speculate, the question calls for him to
23 speculate on what he would have done, "would have made
24 time."

25 THE COURT: Sustained.

1 MR. TOWNSEND: Does it refresh
2 your memory as far as at least in an approximate time
3 location as to when you would have visited with Billy
4 Wardlow?

5 THE WITNESS: I honestly don't
6 know the date that I visited with Billy Wardlow, I
7 honestly can't say.

8 Q (BY MR. TOWNSEND) Do you believe based on your
9 normal procedure with inmates that after those sort of
10 notations and letters that you would have visited with
11 him?

12 MR. OLD: Your Honor, I object
13 to the question, it calls for him to speculate as to what
14 he normally would have done and the issue is what he did.

15 MR. TOWNSEND: Your Honor, I
16 believe the witness has demonstrated clearly that he does
17 not know exactly when he visited with him. I'm simply
18 trying to ascertain what would be his normal habit in a
19 situation of that nature since he doesn't know.

20 THE COURT: I will let you
21 rephrase and ask him what his normal habit would have
22 been.

23 But again, I don't think that
24 necessarily is going to clear up the date of the
25 conversation but you may ask that question.

1 MR. TOWNSEND: In a situation
2 in your jail where you are having a prisoner who was
3 having problems similar to those we discussed what would
4 be your normal habit, your normal practice?

5 Would it be to visit with him in a
6 fairly prompt fashion or delay that quite some time?

7 THE WITNESS: I would have
8 tried to visit with him as soon as possible. It may have
9 been, it could have been three days, it may have been a
10 week or more later.

11 Q (BY MR. TOWNSEND) Even though you don't know
12 when the visit took place you don't believe it would have
13 been more than a week?

14 MR. OLD: Your Honor, I'm
15 going to object. He can't answer a question when he says
16 he truly does not know when it took place.

17 THE COURT: Sustained.

18 MR. OLD: He's asking him to
19 guess an answer.

20 THE COURT: Sustained.

21 MR. TOWNSEND: Going back to
22 -- let me ask you this before I forget; there is, based
23 on the Wardlow Jail Cell Assignments it's obvious that
24 he has been moved a few times, do you recall from your
25 own memory why he was moved on these occasions or not?

1 THE WITNESS: The majority of
2 the time it was upon his request. On one particular
3 instance he was -- just a second -- on one particular
4 instance on May the 15th of 19 --

5 Q (BY MR. TOWNSEND) Would that be this year?

6 A Excuse me.

7 On May 15th of 1994 I have an Incident
8 Report on -- on Mr. Wardlow so far as him having a razor
9 there at his bunk, some of the other inmates had called
10 in.

11 If you wish, it's going to be -- excuse
12 me a second -- it's going to be under the "Incident",
13 Billy -- and this will start out "Incident Report on
14 Billy Wardlow", on May 15th at approximately 1:15 a.m.

15 Q Was, Sheriff Blackburn, let me ask you, getting
16 back to the point; was he moved for that reason?

17 I believe based on the Cell Assignments
18 it appears that he was not moved?

19 A Okay. He -- that would have been one of the
20 reasons that he could have been moved. I say the
21 majority of the reasons that he was moved was upon his
22 request, which those are mentioned throughout there.
23 (Indicating)

24 Q Okay. It appears -- are you looking at the
25 sheet that is marked "Cell Assignments?" (Indicating)

1 A Yes, sir.

2 Q It appears that he was moved on February 21st,
3 do you know why he was moved on that occasion?

4 A Well, we can find some documents in all those
5 that was admitted yesterday.

6 Q Well, I'm just asking you from your
7 recollection.

8 A From my recollection. No.

9 Q Would your recollection also be the same on
10 these other movements, you wouldn't remember?

11 A No, sir. I wouldn't.

12 Q But usually it was because of a request from
13 him?

14 A The majority of the time. Yes, sir.

15 Q Going back to this conversation you had with
16 Mr. Wardlow where you suggested that you wrote out your
17 problems, did at anytime during that conversation did he
18 tell you he was going to write you a letter or send you
19 a statement or anything of that nature?

20 A No, sir.

21 Q So that -- that was not something you expected?

22 A I expected nothing.

23 MR. OLD: Your Honor, we are
24 going to object to the line of questioning, it calls on
25 him to -- what he expected is not relevant, it's what he

1 got.

2 THE COURT: I think his
3 intention might be relevant. Overruled.

4 MR. TOWNSEND: Sheriff
5 Blackburn, I believe yesterday you described that meeting
6 as being somewhere between 30 minutes and an hour and 15
7 minutes?

8 THE WITNESS: Thereabouts.
9 Yes, sir.

10 I don't think it would have extended
11 past that.

12 Q (BY MR. TOWNSEND) During that period of time
13 however long it may have been was religion and Billy's,
14 for lack of a better term, "depression or emotional
15 disturbances", were those the topic of that entire
16 discussion or would you all just talk about other
17 subjects?

18 A Just in general round house discussion.

19 Billy was needing someone to talk to,
20 sent a note out earlier requesting to speak to me and I
21 simply spoke to him.

22 There was no intent on doing anything
23 other than talking to Billy.

24 Q Okay.

25 A And, yes, we covered -- I can't name you

1 specific areas that we talked about, go down the line,
2 but it was -- it was an all around general type of
3 discussion.

4 Q So there was only a portion of the time where
5 religion or Billy's mental state was discussed?

6 A That's correct. Yes, sir.

7 Q Would that have been a large portion, small
8 portion? Do you recall?

9 A No, sir. It was just throwed in with
10 everything else, you know. As far as giving a break-down
11 on the time we spent from one thing to just having one
12 or general discussion, one thing led into another thing
13 and another thing to something else.

14 As far as making it something specific
15 that we talked about, you know, Billy did just as much
16 talking as I did.

17 Q Okay. During this meeting I believe you
18 testified that you told him to write out his problems.

19 Did you tell him to write out the
20 evidence surrounding the murder of Carl Cole?

21 A I did not tell Billy to write out the evidence
22 surrounding the death of Mr. Cole.

23 Now, Billy was saying that he was having
24 nightmares about what had happened, he was having trouble
25 sleeping and I explained to Billy whenever I had problems

1 if I could put it down in black and white and look at it
2 and read it -- it was obvious that, you know, say Billy
3 was having problems in dealing with what had happened,
4 as far as ever indicating to him or to anyone else to
5 write down something specifically, there was no mention
6 of that.

7 I did tell Billy that if he wrote down
8 anything he did not want anyone else to see to simply
9 tear it up and destroy it and flush it.

10 Q Okay. I believe you told him to -- I believe
11 at some point yesterday you told him to get right with
12 God.

13 What do you mean by "Get right with
14 God?"

15 Did you mean through prayer?

16 A Through living.

17 Q Did you ever suggest to him that that getting
18 right with God meant confessing?

19 A No.

20 Q So all you talked about was his relationship
21 between himself and his God?

22 A Yes, sir. That's what I was referring to.

23 Q Officer Blackburn, were you concerned that just
24 simply talking with Billy about jail matters or about his
25 emotions or anything of that nature, did you feel like

1 you were violating any --

2 MR. OLD: Your Honor, we
3 object to this line of questioning. We don't feel that
4 it is relevant and we would cite the Court "Rhode Island
5 versus McGinnis", a United States Supreme Court case and
6 it talks about the function or equivalent of the present
7 questioning and the functional equivalent means words or
8 actions on the part of the police that the police should
9 know are reasonably likely to elicit an incriminating
10 response, the latter portion of this definition focuses
11 primarily on the perception of the suspect rather than
12 the intent of the police.

13 I mean it's --

14 MR. TOWNSEND: Your Honor,
15 there are cases that discuss whether -- there is a "Maine
16 versus Moulton" being one that discusses specifically
17 situations like this and it talks about whether it's the
18 officer was involved in a knowing exploitation, it has
19 to do with the intent of the officers.

20 THE COURT: I'm going to
21 overrule the objection.

22 Frankly after testimony I expect both
23 sides to give me some law to review and, if Mr. Old, what
24 you told me is correct I assume it is, then I will look
25 at whatever testimony I believe is relevant to make my

1 decision.

2 So your objection is overruled.

3 You may answer the question.

4 And Mr. Townsend, if you wish to repeat
5 the question you may do so.

6 Sheriff, do you recall the question?

7 THE WITNESS: Pretty well.

8 What I would like to say is this; Billy
9 had sent out a request to speak to me and I spoke to
10 Billy. Billy didn't say in his letter "I want to give
11 you a statement" nor at anytime did I tell Billy "I want
12 you to write me down a statement" nor at anytime did I
13 indicate to Billy to write me a letter of any kind about
14 anything.

15 I simply did it as one human being
16 helping another human being.

17 Now, people can say what they want to
18 say and think what they want to think. My sole intent
19 was to simply talk to Billy about whatever he wanted to
20 talk about and I believe that Billy will tell you the
21 same thing.

22 MR. TOWNSEND: No further
23 questions, Your Honor.

24 Pass the witness.

25 THE COURT: Mr. Old?

RECROSS EXAMINATION

BY MR. OLD

Q Back to your statement that you just made; Billy sent you a request to talk to you about his case, that's State's Exhibit 1, we have been over it several times and it says --

A Yes, sir.

Q -- "I would like to talk to Sheriff Blackburn about my case?"

A Correct.

Q Whenever this conversation took place from the time you got that request and you went to talk to him you talked to both the District Attorney and to the District Judge of the 276th Judicial District Court, William Porter?

A That's correct.

Q You said you didn't ask him for a confession?

A No, sir.

Q But getting in what Mr. Townsend characterized as "him getting right with God", you did tell him that forgiveness of sins was based upon confession of those sins, did you not?

A Repeat that question, please.

Q You told him words to the effect that the

1 forgiveness of sin was based upon the confession of those
2 sins, God won't forgive you until you asked for
3 forgiveness?

4 A I don't know if I said it --

5 Q Words to that effect?

6 A Probably so. Yes, sir.

7 Q And I believe what you testified to yesterday
8 was that you told him to write down everything from the
9 time he had left Fort Worth until present?

10 MR. TOWNSEND: Object, Your
11 Honor. I don't believe that was his testimony at all.

12 THE COURT: Sustained.

13 You may ask him but I don't recall that
14 specific testimony, either.

15 MR. OLD: Was that what you
16 told him?

17 THE WITNESS: Yes, sir.
18 That's correct.

19 Q (BY MR. OLD) You told him to write down
20 everything from the time he left Fort Worth?

21 A Yes, sir. I -- I would almost bet on that part
22 of it.

23 Q You would agree with me whether you testified
24 to that or not that is correct, that is what you told
25 him?

1 A I agree with that. Yes, sir.

2 Q And leaving Fort Worth was a time prior to the
3 death of Mr. Cole?

4 A Yes, sir.

5 Q In this conversation I think Mr. Townsend
6 characterized part of it as a "round house conversation",
7 you all talked about a bunch of things.

8 Did you all talk about lawyers?

9 A "Talk about lawyers?"

10 Q Yes. I'm not talking about any particular
11 lawyer, did you all talk about lawyers?

12 A Since they are not one of my favorite subjects,
13 no offense to you fellows -- I don't know that we talked
14 -- that we would talk about attorneys or not.

15 Q Has Billy explained to you about the lack of
16 communication of the lawyer that was appointed at that
17 time, Mr. Solomon?

18 A That's what I was looking for. In December of
19 '93 I had gotten several notes from Billy expressing --
20 and that is going to be under --

21 Q Let me just ask you --

22 A -- requests Billy -- where he was expressing
23 disregard with his attorney, of his attorney Mr. Solomon.

24 Q "Dissatisfaction with Mr. Solomon?"

25 A Yes, sir.

1 Q Did you all discuss that at this meeting and
2 if not Mr. Solomon perhaps lawyers in general?

3 A I honestly don't --

4 Q You don't know?

5 A -- I honestly don't remember bringing up --
6 bringing up "attorneys", it's a possibility but I
7 honestly don't.

8 Q If I may summarize what I think you told me,
9 and correct me if I am wrong; what you are saying is you
10 do not specifically recall lawyers specifically or
11 generally being discussed but you will not raise your
12 right hand and swear that you all did not discuss
13 lawyers?

14 A Or that we did. No.

15 MR. OLD: Your Honor, we'll
16 pass the witness.

17 THE COURT: Mr. Townsend?

18 MR. TOWNSEND: No further
19 questions, Your Honor.

20 THE COURT: Sheriff, you may
21 step down.

22 The State may call their next witness.

23 MR. TOWNSEND: The State
24 rests, Your Honor.

25

1 (State rested its case on the Motion.)

2
3 MR. OLD: Your Honor, can we
4 have about five or 10 minutes to talk to our client?

5 THE COURT: You may.

6 MR. OLD: And determine
7 whether to go forward at this time?

8 THE COURT: You may.

9
10 (Recess.)

11
12 THE COURT: Let's get back on
13 the record.

14 The State has rested, is the Defense
15 ready to proceed?

16 MR. HINSON: Yes, Your Honor.

17 We would call Billy Joe Wardlow at this
18 time.

19 THE COURT: Again, I want the
20 record to again reflect that I did grant the Defense
21 motion to limit cross examination in that the hearing
22 will be limited to the evidence covered by the Motion to
23 Suppress the Alleged Confession(s).

24 Mr. Hinson, you may proceed.

1 BILLY JOE WARDLOW,
2 the Defendant, was called as a witness and, having been
3 first duly sworn by the Court, testified as follows:
4

5 DIRECT EXAMINATION

6 BY MR. HINSON
7

8 Q State your name for the record, please.

9 A Billy Wardlow.

10 Q What is your full name?

11 A "Billy Joe Wardlow."

12 Q Mr. Wardlow, how long have you been
13 incarcerated in jail for the offense for which you are
14 charged at this time?

15 A Since June of 1993.

16 Q And you recently were transferred to the Titus
17 County Texas Jail facility?

18 A In September. Yes, sir.

19 Q Starting back in June of 1993 can you describe
20 to the Court your sleeping schedule?

21 A Pretty erratic, not very much sleep, maybe --
22 maybe an hour or two a day, sometimes I wouldn't sleep
23 for days on end, sometimes I would sleep for two or three
24 days.

25 Q That was beginning in June of '93 up through

1 February of '94 and then through today has that schedule
2 changed and how has it changed?

3 A It straightened out since the beginning of this
4 year. I have worked through some of the problems that
5 I have been going through and I have been able to sleep
6 pretty regularly through this year.

7 Q At the time you had a conversation with Mr.
8 Blackburn somewhere in January or February of '94 you
9 discussed with him the nightmares and sleeping -- erratic
10 sleeping patterns that you had?

11 A Yes, sir.

12 Q So at the time you had a conversation -- well,
13 you requested a conversation with Mr. Blackburn
14 approximately January the 25th of '94?

15 A Yes, sir.

16 Q And then after that date you had discussed your
17 sleeping patterns and nightmares with Mr. Blackburn?

18 A Yes, sir.

19 Q And you would have discussed that more fully
20 with him at the time that you had a visit with him at the
21 Chief Jailer's Office there in the Morris County Jail?

22 A Yes, sir.

23 Q Can you describe to the Court what you may have
24 told Mr. Blackburn regarding your sleeping habits, what
25 he was aware of?

1 A I told him I was having problems sleeping,
2 facing the problem, just events that happened and
3 different things. I was having problems emotionally, I
4 was feeling stressed out, just felt like I was about to
5 be over the edge.

6 I told him, you know, I just needed
7 somebody to help -- to talk to to be able to help me
8 through these problems.

9 Q How many hours a night were you sleeping an
10 approximate time prior to the time you had a conversation
11 with Mr. Blackburn in the Chief Jailer's Office?

12 A Off and on I would say every other day maybe
13 two hours a night.

14 THE COURT: So you are telling
15 me that you would have about two hours of sleep in a 48-
16 hour period?

17 THE WITNESS: Yes, sir.

18 MR. HINSON: Can you relate
19 to the Court any other experiences that you may have had
20 with any other inmates regarding your sleeping habits?

21 MR. TOWNSEND: Your Honor, I
22 object. I don't see any relevance to this.

23 MR. HINSON: Well, Your Honor,
24 the mental capacity or mental state of the Defendant at
25 the time he was counseled by Mr. Blackburn is what is at

1 issue and Mr. Wardlow can explain the circumstances that
2 he was personally involved in in his sleeping and what
3 he may have been involved in, you know, on a daily basis,
4 what his routine was and it basically reflects his
5 emotional state at this time.

6 THE COURT: Overruled. You
7 may proceed.

8 THE WITNESS: Just mainly with
9 the inmates telling me, "Oh, you are going to get the
10 death penalty, you are going to do this, you are going
11 to do that", just other inmates picking on me making fun
12 of me and this and that for the situation that I was in.

13 MR. HINSON: Had you requested
14 any kind of counseling in a written statement or orally?

15 THE WITNESS: I had requested
16 several times orally, I got no response.

17 I requested from my attorney and I got
18 no response so I wrote to the Sheriff to request
19 psychological examination.

20 Q (BY MR. HINSON) Now, when you referred to
21 "your attorney" are you referring to Mr. Vernard Solomon?

22 A Yes, sir.

23 Q And that was your first Court appointed
24 attorney, correct?

25 A Yes, sir.

1 Q And are you stating that you had requested
2 psychological help with your problem?

3 A Yes, sir.

4 Q And you had requested that through your
5 attorney?

6 A Yes, sir.

7 Q Had anything come of that request?

8 A No, sir.

9 Q Had anything come of that request to the --
10 well, who did you make a request to in the Morris County
11 Sheriff's Department?

12 A Sheriff Blackburn.

13 Q Did anything come out of that request for
14 counseling?

15 A He had simply talked to me and told me that I
16 would have to make a request through my attorney.

17 Q Was it about that time or thereafter or prior
18 to that that you lost confidence in your first appointed
19 attorney?

20 A Yes, sir.

21 Q Approximately at that time?

22 A Approximately -- approximately around that
23 time, maybe a little later.

24 Q Getting back to your conversation with Mr.
25 Blackburn; it's State's Pre-Trial Exhibit Number 1 where

1 you requested to Patsy that you would like to have a
2 private consultation with Sheriff Blackburn?

3 A Yes, sir.

4 Q And specifically concerning your case?

5 A Yes, sir.

6 Q And that document is designated that someone
7 received it somewhere around January 25th of '94.

8 Now, after that date did you have a
9 conversation that we have all talked about with Sheriff
10 Blackburn?

11 A Yes, sir. Approximately a week later.

12 Q At the time that you consulted with Mr.
13 Blackburn and you heard his testimony, you discussed
14 religious matters at that time?

15 A Yes, sir.

16 Q You discussed repentance at that time?

17 A Yes, sir.

18 Q And I believe Mr. Blackburn stated something
19 along the lines of "getting right with God?"

20 A Yes, sir.

21 Q "The truth shall set you free?"

22 A Yes, sir.

23 Q During that conversation with Mr. Blackburn I
24 believe he testified that he suggested or he stated that
25 you could write a statement from the time that you had

1 left Fort Worth until the present time?

2 A Yes, sir.

3 He said from the time that I had left
4 Fort Worth until the present time, which was the time we
5 had the conversation, just to write down everything that
6 had happened between that time, go back and proofread it,
7 correct it, rewrite it and just read over it and that
8 would help me solve my own problem or at least it would
9 help him.

10 Q So as the result of talking with Mr. Blackburn
11 after your request was made to him you wrote a statement
12 to Ricky Blackburn?

13 A Yes, sir.

14 Q As the result of talking to Mr. Blackburn at
15 the time that you had requested a hearing and
16 approximately a week thereafter your conversation you had
17 with Mr. Blackburn caused you to write a statement to
18 Ricky Blackburn?

19 A Yes.

20 Q Now, at that time that you had this
21 conversation with Mr. Blackburn you had had no
22 psychological counseling?

23 A None whatsoever.

24 Q And your own Court appointed attorney had
25 failed to counsel you on several matters?

1 A Yes. He had failed to do so.

2 Q You weren't satisfied with your Court appointed
3 attorney?

4 A No, sir. I was not.

5 Q At the time you had a conversation with Mr.
6 Blackburn were you looking to him for counseling at that
7 time?

8 A Yes, sir.

9 Q Did you consider Mr. Blackburn to be a
10 reputable authority figure?

11 A When I talked to him I considered him just as
12 a friend and not as an authority over the facility I was
13 in or Sheriff of Morris County, I considered him just as
14 a human, someone to look up to, a big brother, someone
15 that I could -- had confidence in that I could trust as
16 a friend.

17 Q You placed trust in Ricky Blackburn?

18 A Yes, sir.

19 Q He provided spiritual guidance for you at the
20 time you had this conversation in the Chief Jailer's
21 Office?

22 A Yes, sir. He gave me an example to follow.

23 Q Did you rely on the suggestions that he made
24 to you?

25 A I felt that it would help me as well if it

1 helped him.

2 Q And had Mr. Blackburn -- I believe he testified
3 that he relayed to you his past experiences and how he
4 had relied on looking at the Bible that he carries and
5 how those occurrences of his life had helped him?

6 A Yes, sir. He said that he was -- that he would
7 just flip to a page and whatever was there there was
8 usually something generally there that helped him to make
9 it through his problem or dealt with it in some manner,
10 shape, form or fashion.

11 MR. HINSON: Approach the
12 witness, Your Honor?

13 THE COURT: You may.

14 MR. HINSON: Mr. Wardlow, I
15 hand you what has been marked "State's Pre-Trial Exhibit
16 Number 3" which is the -- I believe it's dated February
17 28th, 1994, is that correct, the date on it?

18
19 (Handed to the witness.)

20
21 THE WITNESS: Yes, sir.

22 MR. HINSON: As the result of
23 your conversation with Mr. Blackburn on or after --
24 approximately a week after January 25th, 1994 you had a
25 conversation with Mr. Blackburn and that conversation you

1 previously stated caused you to write a letter to Ricky
2 Blackburn, correct?

3 THE WITNESS: Yes, sir. It
4 influenced me to write that letter.

5 Q (BY MR. HINSON) Is State's Pre-Trial Exhibit
6 Number 3 the letter that you wrote to Ricky Blackburn?
7 (Indicating)

8 A Yes, sir. 'It is.

9 Q Now, at the time that you had a conversation
10 with Mr. Blackburn his advice was to you and I believe
11 I'll try to paraphrase it as best I could, told you to
12 write a statement regarding what had happened to you
13 since you left Fort Worth until the present time, the
14 time that you were talking to him?

15 A Yes, sir.

16 Q And that time included the events on or about
17 June 19th, '94 or '93 -- "'93", I'm sorry?

18 A Yes, sir.

19 Q It would have included any events during that
20 time and he counseled with you and told you that his
21 usual deal was to write these things down?

22 A Yes, sir.

23 Q Look at them, reflect on whatever was written
24 in there, correct those and eventually you would find the
25 answer in yourself to the problem that you were having,

1 is that correct?

2 A Yes, sir. That's correct.

3 Q As to State's Pre-Trial Exhibit Number 3 which
4 was written as the result of your conversation with Mr.
5 Blackburn?

6 A Yes, sir.

7 Q At his suggestion, caused you to write?

8 Did you eventually write Mr. Blackburn
9 another letter?

10 A Yes, sir.

11 Q And in that what I call the "second letter" did
12 you relate more events than what you had in what has been
13 marked as "State's Pre-Trial Exhibit Number 3?"

14 A Yes, sir. It was a correction to the first
15 letter.

16 Q So in addition or from the time you talked to
17 Mr. Blackburn somewhere around January or February of '93
18 or "'94", I'm sorry, it was suggested or counseled to you
19 that you write a letter or write a statement, go back and
20 reflect on that letter, reread that letter, make
21 corrections.

22 As the result of that counseling from
23 Mr. Blackburn you wrote a second letter?

24 A Yes, sir.

25 MR. HINSON: Approach the

1 witness, Your Honor?

2 THE COURT: You may.

3 MR. HINSON: Mr. Wardlow, I
4 hand you what has been marked "State's Pre-Trial Exhibit
5 Number 5", have you seen that document before?

6 THE WITNESS: Yes, sir.

7 Q (BY MR. HINSON) Now, as the result of your
8 conversation with Mr. Blackburn in approximately February
9 of '94 you eventually wrote the first document, the Pre-
10 Trial Exhibit Number 3 and as a result of your continued
11 reflection did you write State's Pre-Trial Number 5?

12 A Yes, sir.

13 Q And there are various references in there that
14 go back to what you had discussed with Mr. Blackburn back
15 in February, could you read those from State's Pre-Trial
16 Exhibit Number 5?

17 I believe that they are highlighted.

18 (Indicating)

19 A The highlighted references? (Indicating)

20 Q Yes.

21 A It says, "Now God has shown me that the truth
22 shall set me free" and the second one says, "But -- where
23 you have started -- says, "kill me, but can't touch my
24 soul which Jesus has cleansed, making it ready for his
25 glory and presence."

1 Q Now, the second part there, would you
2 characterize that as "repentance?"

3 A Yes, sir.

4 Q That you had repented, you had sought
5 forgiveness and now Jesus had forgiven you?

6 A I looked at it as upon repentance through that.
7 Yes, sir.

8 Q Are both of those statements contained in that
9 letter, both of those statements were discussed with Mr.
10 Blackburn in approximately February of '94?

11 A Yes, sir. They were.

12 MR. HINSON: Approach the
13 witness, Your Honor?

14 THE COURT: You may.

15 MR. HINSON: Could I have
16 those copies back?

17
18 (Handed to Mr. Hinson.)

19
20 MR. HINSON: Pass the witness,
21 Your Honor.

22 THE COURT: Mr. Townsend?

23
24
25

CROSS EXAMINATION

BY MR. TOWNSEND

1
2
3
4 Q Mr. Wardlow, when you were arrested in South
5 Dakota did the officer read you what we call the "Miranda
6 Rights?"

7 A No, sir.

8 Q That officer did not do that?

9 A Not immediately.

10 Q Did he do that at some time in South Dakota?

11 THE COURT: Mr. Townsend,
12 would you clarify whether you are talking about a Texas
13 officer or South Dakota officer?

14 MR. TOWNSEND: Sorry, Your
15 Honor.

16 Did a South Dakota officer at anytime
17 read you what I'm calling your "Miranda Rights?"

18 THE WITNESS: Immediately
19 following incarceration in the jail there in Madison.

20 Q (BY MR. TOWNSEND) And that would be that you
21 have the right to an attorney, you have the right to
22 remain silent, that you did -- if you could not afford
23 an attorney one would be appointed for you and so on and
24 so forth?

25 A Yes, sir.

1 Q And then when Mr. Blackburn got to South Dakota
2 did he read you the Miranda Rights again?

3 A Yes, sir.

4 Q Did you -- I believe when Mr. Blackburn talked
5 to you that you invoked your right at that time and chose
6 not to speak with him, is that correct?

7 A Yes, sir. I pled the Fifth, I requested an
8 attorney.

9 Q You requested an attorney?

10 A Yes.

11 Q So you knew that you had all those rights and
12 that they were yours to use if you chose to, is that
13 correct?

14 A Yes, sir.

15 Q When the Sheriff was talking to you about the
16 way he handled his problems, that he would write those
17 problems down, he didn't tell you that he would send his
18 problems to anyone or send his letter to anyone, did he?

19 A No, sir.

20 Q Or his notations?

21 He didn't tell you or didn't request
22 that you send anything to him, did he?

23 A No, sir.

24 Q As a matter of fact he told you to tear it up
25 and flush it down the toilet, didn't he?

1 A Yes, sir.

2 Q And in this, what has been marked as "State's
3 Exhibit 3" which is, if you will refer to it as the first
4 letter dated the 28th of February of 1994, you said that
5 Officer Blackburn suggested to you write down everything
6 beginning in Fort Worth?

7 A Yes, sir.

8 Q But in fact the letter you sent Officer
9 Blackburn, it didn't start in Fort Worth at all, did it?

10 A No, sir. It didn't.

11 MR. OLD: Your Honor, I'm
12 going to him questioning him about the contents of the
13 document.

14 THE COURT: The document
15 clearly speaks for itself but since the document is
16 basically at a variance from what the conversation
17 allegedly instructed him to do I'm going to overrule the
18 objection.

19 MR. TOWNSEND: Did you answer
20 that question?

21 I'm not sure. The letter does not start
22 in Fort Worth, does it?

23 THE WITNESS: No, sir.

24 Q (BY MR. TOWNSEND) The Sheriff didn't have any
25 idea that you were sending him any type of letter?

1 MR. OLD: I object to that,
2 calls for him to speculate.

3 THE COURT: Sustained.

4 MR. OLD: As to the Sheriff's
5 mind, state of mind or what he expected or planned.

6 THE COURT: Sustained.

7 MR. TOWNSEND: You didn't tell
8 the Sheriff you were going to send him any kind of
9 letter, did you?

10 THE WITNESS: I did at one
11 time.

12 Q (BY MR. TOWNSEND) "At one time?"

13 Did you tell him that evening?

14 A No, sir. Beforehand.

15 Q That would have been a few days before he got
16 the letter?

17 A Possibly weeks before.

18 Q Okay. But not during this discussion?

19 A No.

20 Q I believe he told you, you know, that he
21 couldn't take a confession from you because you had an
22 attorney, is that correct?

23 A Yes, sir. He told me that.

24 Q Told you not to talk about the case with him,
25 didn't he?

1 A He wouldn't discuss it. No, sir.

2 Q He would not discuss the case with you?

3 A No, sir.

4 Q The second letter you wrote was dated I believe
5 -- that's marked as State's Exhibit -- let me check, I
6 believe it's "4."

7 MR. OLD: I believe what you
8 are looking for is "Number 5."

9 MR. TOWNSEND: Is that "Number
10 5?"

11 The second letter is marked as "State's
12 Exhibit Number 5" and look at it, make sure you are
13 familiar with it.

14 Is that the -- is that letter, is it
15 dated the 11th of September, the 11th of September of
16 1994 you had no longer had -- I have forgotten his name
17 -- "Mr. Solomon" as your attorney, is that correct?

18 THE WITNESS: Yes, sir.

19 Q (BY MR. TOWNSEND) At that time Mr. Old was
20 your attorney?

21 A Yes, sir.

22 Q During the time that Mr. Old was your attorney
23 I assume you had discussed the case with him?

24 MR. OLD: Your Honor, I'm
25 going to object to this, it invades the attorney-client

1 privilege.

2 MR. TOWNSEND: We are not
3 asking the question the question what he discussed, we
4 just want to know had he had an opportunity to meet with
5 his attorney.

6 THE COURT: I will let you ask
7 him if he met with his attorney but I think asking if he
8 discussed the case may very well get into a conversation
9 that could be privileged.

10 I will sustain the objection.

11 MR. OLD: Thank you, Your
12 Honor.

13 MR. TOWNSEND: Had you had an
14 opportunity to meet with Mr. Old?

15 THE WITNESS: Yes.

16 Q (BY MR. TOWNSEND) You had in fact met with
17 him?

18 A Yes, sir.

19 Q When you were discussing the situation and you
20 were dealing with Officer Blackburn he didn't threaten
21 you in any way, did he?

22 A No, sir.

23 Q He didn't promise you anything?

24 A No, sir.

25 MR. TOWNSEND: Pass the

1 witness, Your Honor.

2 THE COURT: Mr. Hinson?

3 MR. HINSON: Thank you, Your
4 Honor.

5
6 REDIRECT EXAMINATION

7 BY MR. HINSON

8
9 Q Mr. Wardlow, did Sheriff Blackburn, Ricky
10 Blackburn, he stated that he would not discuss the case
11 with you, is that correct?

12 A Yes, sir.

13 Q Did he state to you that he would listen to
14 you, discuss the case or that he would listen to you make
15 statements regarding the case?

16 A He didn't make the statement but I had made
17 some statement concerning my case and he listened.

18 Q And you had made these statements prior to your
19 meeting with him in the Chief Jailer's Office?

20 A No. During the meeting.

21 Q During the meeting, factual statement from you?

22 A Not "factual statement", just some statement
23 concerning the case.

24 Q We are talking about the statement that you
25 wrote down and we talked about events from February or

1 -- not "February" from Fort Worth through the present
2 time, at the time that you were talking to him did Mr.
3 Blackburn represent to you to write down those events?

4 Did he also represent to you to write
5 down the things that were bothering you?

6 A Those are the main things that he stressed,
7 anything that I was having problems with to write that
8 down.

9 He just gave me "Fort Worth" as a
10 referencing point.

11 Q And in the letter you wrote down what was
12 bothering you, in the letters you wrote down what was
13 bothering you?

14 A Yes, sir.

15 Q And in your conversation with Mr. Blackburn,
16 approximately February of '94 you discussed -- I believe
17 we talked about "repentance?"

18 A Yes, sir.

19 Q "Redemption of your soul?"

20 A Yes, sir.

21 Q In making admission or making a statement,
22 confession to God, were you promised or was there some
23 indication to you based on the representation made by Mr.
24 Blackburn that your soul would be saved?

25 A Could you restate that?

1 Q I don't think I can.

2 MR. OLD: Why don't you start
3 over and try again, Lance?

4 MR. HINSON: All right. You
5 talked with Mr. Blackburn in February, early February,
6 '94?

7 THE WITNESS: Yes, sir.

8 Q (BY MR. HINSON) And at the time you talked to
9 him you talked about "repentance?"

10 A Yes, sir.

11 Q "Saving your soul?"

12 A Yes, sir.

13 Q You had been baptized or were going to be
14 baptized?

15 A Yes, sir.

16 Q Seeking forgiveness from God, from a higher
17 being?

18 A Yes, sir. That was a top priority?

19 Q And based on what you had talked about Mr.
20 Blackburn represented to you that there would be a
21 benefit to you by making a statement, getting right with
22 God?

23 A Yes.

24 MR. HINSON: Pass the witness,
25 Your Honor.

1 THE COURT: Mr. Townsend?

2
3 RECROSS EXAMINATION

4 BY MR. TOWNSEND

5
6 Q Mr. Wardlow, you said you mentioned a few
7 things about the case to Mr. Blackburn, each time that
8 you mentioned anything about the case to Mr. Blackburn
9 he told you that he could not discuss it with you and you
10 should not discuss it with him, didn't he?

11 A Yes.

12 MR. TOWNSEND: No further
13 questions.

14 THE COURT: Mr. Hinson?

15 MR. HINSON: Nothing more from
16 the Defense, Your Honor.

17 THE COURT: Mr. Wardlow, you
18 stated a moment ago that the Sheriff never asked you to
19 send a statement to him and told you to destroy it, is
20 that correct?

21 THE WITNESS: Yes.

22 THE COURT: Why did you mail
23 it to him?

24 THE WITNESS: I don't know.

25 THE COURT: Why did you send

1 him the one in September?

2 THE WITNESS: I don't know.

3 THE COURT: Any further
4 questions from either side?

5 MR. HINSON: No, Your Honor.

6 MR. TOWNSEND: Nothing
7 further, Your Honor.

8 THE COURT: You may step down.
9 Call your next witness.

10 MR. OLD: Your Honor, on Mr.
11 Wardlow's Motion to Suppress we rest.

12
13 (The Defense rested on the Motion to
14 Suppress.)

15
16 THE COURT: Does the
17 State --

18 MR. TOWNSEND: The State
19 rests, Your Honor.

20 THE COURT: Both sides close?

21 MR. TOWNSEND: Yes, Your
22 Honor.

23
24 (Both sides closed on the Motion to
25 Suppress.)

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THE COURT: It's 12:00

o'clock. Do you want to go to lunch and then argue after
lunch or are you prepared for argument?

MR. OLD: I would rather make
written argument by submitting a brief.

THE COURT: Let's go off the
record.

(Off the record discussion.)

THE COURT: Recess until
10:30. Briefs to be submitted by parties, the Court is
to rule.

(Record closed for October 18th, 1994.)

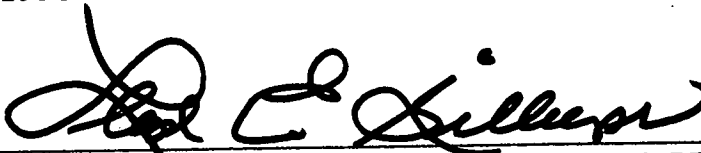
(Whereupon Court was recessed until
10:30 a.m., October 24th, 1994.)

1 STATE OF TEXAS §
 2 COUNTY OF TITUS §

3
 4 I, Lloyd E. Billups, CSR #149 and
 5 Official Court Reporter in and for the 76th Judicial
 6 District, State of Texas, do hereby certify that the
 7 above and foregoing contains a true and correct
 8 transcription of the proceedings in the above-styled and
 9 numbered cause, all of which occurred in open court or
 10 in chambers on October 18, 1994 and were reported by me.

11 I further certify that this
 12 transcription of the record of the proceedings truly and
 13 correctly reflects the exhibits, if any, offered by the
 14 respective parties.

15 WITNESS MY HAND this 31ST day of
 16 January, 1995.

17 

18 LLOYD E. BILLUPS, CSR #149 & OFFICIAL COURT REPORTER
 19 76TH JUDICIAL DISTRICT, STATE OF TEXAS
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1 Certification Number of Reporter: 149

2 Expiration Date of Certification: 12/31/96

3 Business Address: Drawer 1868
4 Mt. Pleasant, Texas 75456-1868

5 Telephone Number: 903/577-6735

6 Transcribed By: Tandra K. Gibson
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